



U.S. Department of Justice
Immigration and Naturalization

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OFFICE OF ADMINISTRATIVE APPEALS

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FILE: WAC 99 215 50823

Office: California Service Center

Date: MAR 20 2000

IN RE: Petitioner:
Beneficiary

PETITION:

Petition for Nonimmigrant Worker Pursuant to § 101(a)(15)(P)(iii) of the Immigration and Nationality Act (Act), 8 U.S.C. 1101(a)(15)(P)(iii)

IN BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director of the California Service Center (director) and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner, a United States business to promote international culture and exchange since 1998, seeks to employ the beneficiary as a culturally unique performer under the P-3 classification to emcee shows in the United States until February 9, 2000. The director determined that she did not qualify for classification as a P-3 essential support person, as the petition alleged no P-3 performers who were in the United States. The decision dated October 10, 1999 denied the petition. The petitioner insisted on appeal that the director consider its petition for P-3 classification. It objected to the Service's substituting regulations governing P-3 essential support personnel. The decision advanced no reason to supplant the petitioner's choice of remedy, P-3.

In § 101(a)(15)(P), 8 U.S.C. 1101(a)(15)(P), the Immigration and Nationality Act (Act) provides P-3 classification to an alien having a foreign residence which the alien has no intention of abandoning, who performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and who seeks to enter the United States temporarily and solely to perform, teach, or coach as such an artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

"Culturally unique" is defined as "a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons." 8 C.F.R. 214.2(p)(3).

In pertinent part, 8 C.F.R. 214.2(p)(6)(i)(A)-(B) accords the P-3 classification for artists or entertainers, individually or as a group, but expands it to developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation, which will further the understanding and development of his or her art form. Counsel reasons that the beneficiary qualifies as a P-3 alien developing an artistic presentation, as the co-producer of an event, or events, of January, 2000, "Stars of the Century." She will offer coaching on others', as well as script her own, lines. See the brief on appeal, at 2-3 and the petitioner's offer of employment to the beneficiary, dated July 15, 1999. Counsel argues that the beneficiary is to develop a culturally unique program for a presentation at that time.

In addition, the petitioner urges, the validity period of the petition must encompass many smaller events in which the beneficiary might participate before the event of January, 2000. Letter dated July 16, 1999 to the Service. The petitioner did not offer, with the petition or otherwise, the mandatory itinerary for

the smaller events. 8 C.F.R. 214.2(p)(2)(ii)(C). The data yields no itinerary of definite employment and no account of the nature of the beneficiary's services. 8 C.F.R. 214.2(p)(2)(iii)(E)(1). It does not satisfy the burden to explain the terms and conditions, dates, places, and actual employers at such smaller venues. 8 C.F.R. 214.2(p)(2)(iii)(E)(2). It does not specify the development of programs or demonstrate the appearance of the beneficiary in a culturally unique expression, methodology, or medium in the smaller events. 8 C.F.R. 214.2(p)(6)(i)(A)-(B).

The petitioner does not contend that the function of the emcee is culturally unique. On its face, it serves too generic a purpose to meet that definition. It does not evince a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons. 8 C.F.R. 214.2(p)(3).

The Attorney General may authorize the nonimmigrant's admission only for the time of an event, as defined. See § 214(a)(2)(B) of the Act 8 U.S.C. 1184(a)(2)(B). Much of the beneficiary's proposed activity required the Attorney General to admit the non-immigrant for activity which, as far as the proof showed, did not fall within the P-3 classification. The director could not determine the validity period of the petition. 8 C.F.R. 214.2(p)(8)(iii)(C).

The burden of proof rests solely with the petitioner in these proceedings. See § 291 of the Act, 8 U.S.C. 1361. The petitioner did not sustain it.

ORDER: The appeal is dismissed.